

REMARKS

Claims 1-24 are pending in this application. Claims 1, 3, 5, 7, 11, 15, 19, 21 and 23 are independent. In light of the amendments and remarks made herein, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

Applicant wishes to thank the Examiner for allowing claims 3-6, 15-18, 23 and 24.

In the outstanding Official Action, the Examiner rejected claims 1, 2, 7-14 and 19-22 under 35 U.S.C. §101. Applicant respectfully traverses these rejections.

Claim Rejections – 35 U.S.C. §101

The Examiner rejected claims 1, 2, 7-10, 19 and 20 asserting these claims are not tied to a machine nor do they perform a transformation, as required by *In re Bilski*, 88 USPQ.2d 1385 (Fed. Cir. 2008).

By this amendment, Applicant has amended claims 1, 7 and 19 in order to tie the method as recited in the claim to a processor. As such, it is respectfully submitted that claims 1, 7, and 19 are tied to a machine and therefore are directed toward statutory subject matter.

The Examiner further rejected claims 11-14, 21 and 22 asserting that although the claims recite an apparatus, the body of the claims does not recite structure. Applicant respectfully disagrees with the Examiner's assertions.

An "apparatus" is one of the enumerated categories set forth by statute. The "machine or transformation test" set by the Court in *In re Bilski* merely applied to method claims, and not to apparatus claims. In order to further prosecution, Applicant has amended these claims to recite a processor. As such, Applicant submits that these claims are directed toward statutory subject matter. It is respectfully requested that the outstanding rejection be withdrawn.

Conclusion

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet Reg. No. 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: March 2, 2009

Respectfully submitted,

By 

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